

116TH CONGRESS
1ST SESSION

H. R. 4073

To amend the Higher Education Act of 1965 to provide Federal Pell Grants on behalf of an incarcerated individual.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. TRONE (for himself, Mr. BACON, Ms. LEE of California, Mr. WRIGHT, and Mrs. LEE of Nevada) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Higher Education Act of 1965 to provide Federal Pell Grants on behalf of an incarcerated individual.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Expanding Edu-
5 cational Opportunities for Justice-Impacted Communities
6 Act”.

1 **SEC. 2. FEDERAL PELL GRANTS ON BEHALF OF INCARCER-**
2 **ATED INDIVIDUALS.**

3 (a) REMOVAL OF PROHIBITION.—Section 401(b) of
4 the Higher Education Act of 1965 (20 U.S.C. 1070a(b))
5 is amended by striking paragraph (6).

6 (b) FEDERAL PELL GRANTS ON BEHALF OF INCAR-
7 CERATED INDIVIDUALS.—Section 401 of the Higher Edu-
8 cation Act of 1965 (20 U.S.C. 1070a) is amended by add-
9 ing at the end the following:

10 “(k) FEDERAL PELL GRANTS ON BEHALF OF INCAR-
11 CERATED INDIVIDUALS.—

12 “(1) INSTITUTIONAL REQUIREMENTS.—An eli-
13 gible institution may not award a Federal Pell Grant
14 to an incarcerated individual or on behalf of such in-
15 dividual, unless the institution meets the following:

16 “(A) The institution is approved to enroll
17 incarcerated individuals by—

18 “(i) the Secretary in accordance with
19 paragraph (2); and

20 “(ii) an accrediting agency or associa-
21 tion that meets the requirements of section
22 496(a)(C).

23 “(B) The eligible institution—

24 “(i) is an institution of higher edu-
25 cation (as defined in section 101) or a

1 postsecondary vocational institution (as de-
2 fined in section 102(c)); and

3 “(ii) during the preceding 5 years, has
4 not been subject to the denial, withdrawal,
5 suspension, or termination of accreditation.

6 “(C) The institution provides each incar-
7 cerated individual, upon completion of a course
8 offered by the institution, with academic credits
9 that are the equivalent to credits earned by
10 non-incarcerated students for an equivalent
11 course of study.

12 “(D) The institution provides to the Sec-
13 retary confirmation from each facility involved
14 that the course of study offered by the institu-
15 tion at such facility is accessible to incarcerated
16 individuals (including such individuals who are
17 individuals with disabilities).

18 “(E) The institution does not enroll incar-
19 cerated individuals in a course of study offered
20 primarily as a distance education program, ex-
21 cept in a case in which the institution provides
22 to the Secretary—

23 “(i) confirmation that the distance
24 education program offers levels of faculty
25 interaction, peer engagement, and student

1 support sufficient to enable incarcerated
2 individuals to successfully participate in
3 such a program; and

4 “(ii) evidence of the institution’s suc-
5 cess in offering other distance education
6 programs.

7 “(F) The institution develops and carries
8 out a process to allow each incarcerated indi-
9 vidual to access the transcripts and any other
10 educational records of such individual held by
11 the institution, without regard to the facility at
12 which the individual is being held or whether
13 the individual has been released from such a fa-
14 cility.

15 “(G) The institution develops and carries
16 out a process to allow each incarcerated indi-
17 vidual an opportunity to provide feedback on
18 courses that is comparable to the opportunity to
19 provide such feedback that the institution offers
20 to non-incarcerated students.

21 “(H) The institution does not directly
22 charge an incarcerated individual—

23 “(i) in the case of such an individual
24 who is an individual with a disability, for
25 any cost of the provision of reasonable ac-

1 commodations for the individual to partici-
2 pate in a course of study offered by the in-
3 stitution;

4 “(ii) in the case of such an individual
5 with an expected family contribution for an
6 award year that would not disqualify the
7 individual from receiving a Federal Pell
8 Grant, for any amount of the cost of at-
9 tendance not covered by the Federal Pell
10 Grant or other Federal assistance received
11 by the institution on behalf of the indi-
12 vidual by ensuring that any such amount
13 is offset—

14 “(I) by a State or institutional
15 grant; or

16 “(II) other non-Federal financial
17 assistance that does not have to be re-
18 paid by such individual; or

19 “(iii) in the case of such an individual
20 with an expected family contribution for an
21 award year that would disqualify the indi-
22 vidual from receiving a Federal Pell Grant,
23 an amount that exceeds such expected
24 family contribution.

1 “(I) The institution does not (directly or
2 indirectly) charge an incarcerated individual for
3 an award year, an amount that exceeds the in-
4 dividual’s expected family contribution or the
5 cost of attendance for such year.

6 “(J) The institution makes available to in-
7 carcerated individuals who are considering en-
8 rolling in a course of study offered by the insti-
9 tution, in simple and understandable terms, the
10 following:

11 “(i) Information with respect to each
12 course of study at the institution for which
13 such an individual may receive a Federal
14 Pell Grant, including—

15 “(I) the cost of attendance;

16 “(II) the mode of instruction
17 (such as distance education, in-person
18 instruction, or a combination of such
19 modes);

20 “(III) the source of funds (in ad-
21 dition to Federal Pell Grants) used to
22 carry out such course of study, includ-
23 ing the funds used to ensure compli-
24 ance with subparagraph (G);

1 “(IV) how enrollment in such
2 course of study will impact the period
3 of eligibility for Federal Pell Grants
4 for such an individual, including in a
5 case in which the individual is trans-
6 ferred to another facility or released
7 before the completion of such course;

8 “(V) the transferability of credits
9 earned, and the acceptability of such
10 credits toward a certificate or degree
11 program offered by the institution;

12 “(VI) the process for continuing
13 postsecondary education—

14 “(aa) upon transfer to an-
15 other facility; or

16 “(bb) after the student’s pe-
17 riod of incarceration or confine-
18 ment; and

19 “(VII) the process for continuing
20 enrollment at the institution after the
21 student’s period of incarceration or
22 confinement, including any barriers to
23 admission (such as criminal history
24 questions on applications for admis-
25 sion to such institution).

1 “(ii) In the case of an institution that
2 offers a program to prepare incarcerated
3 individuals for gainful employment in a
4 recognized occupation (as such term is
5 used in sections 101(b)(1), 102(c)(1)(A),
6 and 481(b)(1)(A)(i)—

7 “(I) information on any applica-
8 ble State licensure and certification
9 requirements, including the require-
10 ments of the State in which the facil-
11 ity involved is located and each State
12 in which such individuals permanently
13 reside; and

14 “(II) restrictions related to the
15 employment of formerly incarcerated
16 individuals for each recognized occu-
17 pation for which the course of study
18 prepares students, including such re-
19 strictions—

20 “(aa) in Federal law; and

21 “(bb) in the laws of the
22 State in which the facility in-
23 volved is located and each State
24 in which such individuals perma-
25 nently reside.

1 “(K) The institution submits the informa-
2 tion described in subparagraph (J) to each fa-
3 cility involved, the Secretary, and the accred-
4 iting agency or association described in sub-
5 paragraph (A)(ii).

6 “(2) APPROVAL BY THE SECRETARY.—

7 “(A) INITIAL ELIGIBILITY.—With respect
8 to an eligible institution that seeks to award
9 Federal Pell Grants to incarcerated individuals
10 under this subsection, the Secretary shall make
11 an initial determination about whether such in-
12 stitution meets the requirements of this sub-
13 section, which shall include a confirmation that
14 the institution—

15 “(i) has secured the approval required
16 under paragraph (1)(A)(ii); and

17 “(ii) meets the requirements of para-
18 graph (1)(B).

19 “(B) ONGOING ELIGIBILITY.—Not later
20 than 5 years after the Secretary makes an ini-
21 tial determination under subparagraph (A) that
22 an institution meets the requirements of this
23 subsection, and not less than every 5 years
24 thereafter, the Secretary shall determine wheth-

1 er such institution continues to meet the re-
2 quirements of this subsection, based on—

3 “(i) a review of the data collected
4 under paragraph (3) with respect to the
5 courses of study offered by such institution
6 in which incarcerated individuals are en-
7 rolled, and other applicable information
8 that may be available to the Secretary; and

9 “(ii) whether such institution meets
10 the requirements of paragraph (1).

11 “(3) DATA COLLECTION.—The Secretary shall,
12 on at least an annual basis, collect data with respect
13 to each course of study offered by each institution
14 at which incarcerated individuals are enrolled, in-
15 cluding—

16 “(A) the demographics of such individuals;

17 “(B) the share of such individuals receiv-
18 ing Federal Pell Grants;

19 “(C) information on the academic out-
20 comes of such individuals (such as credits at-
21 tempted and earned, and credential and degree
22 completion);

23 “(D) to the extent practicable, information
24 on post-release outcomes of such individuals

1 (such as continued postsecondary enrollment,
2 employment, and recidivism); and

3 “(E) any data from student satisfaction
4 surveys conducted by the institution or the fa-
5 cility involved regarding such course of study.

6 “(4) DEFINITIONS.—In this subsection:

7 “(A) COST OF ATTENDANCE.—The term
8 ‘cost of attendance’ has the meaning given the
9 term in section 472.

10 “(B) FACILITY.—The term ‘facility’
11 means—

12 “(i) a place used for the confinement
13 of individuals convicted of a criminal of-
14 fense that is owned by, or under contract
15 to, the Bureau of Prisons, a State, or a
16 unit of local government; or

17 “(ii) a facility to which an individual
18 subject to involuntary civil confinement is
19 committed.

20 “(C) FACILITY INVOLVED.—The term ‘fa-
21 cility involved’ means, when used with respect
22 to an institution of higher education, a facility
23 at which a course of study of the institution is
24 offered to incarcerated individuals.

1 “(D) INCARCERATED INDIVIDUAL.—The
2 term ‘incarcerated individual’ means an indi-
3 vidual who is incarcerated in a facility or who
4 is subject to an involuntary civil commitment.

5 “(E) NON-INCARCERATED STUDENT.—The
6 term ‘non-incarcerated student’ means a stu-
7 dent at an institution of higher education who
8 is not an incarcerated individual.”.

9 **SEC. 3. FAFSA.**

10 Section 483 of the Higher Education Act of 1965 (20
11 U.S.C. 1090) is amended—

12 (1) in subsection (a)(4), by adding at the end
13 the following:

14 “(C) INCARCERATED INDIVIDUALS.—

15 “(i) IN GENERAL.—The Secretary
16 shall streamline the forms and processes
17 for an incarcerated individual (as defined
18 in section 401(k)(4)) to apply for a Fed-
19 eral Pell Grant under section 401, which—

20 “(I) shall be used to determine
21 the expected family contribution for
22 such individual as of the date of en-
23 rollment in the course for which the
24 individual is applying for such Federal
25 Pell Grant; and

1 “(II) may include—

2 “(aa) notwithstanding sec-
3 tion 12(f) of the Military Selec-
4 tive Service Act (50 U.S.C.
5 3811(f)), a waiver of the selective
6 service registration requirement;

7 “(bb) flexibility in the sub-
8 mission of any required docu-
9 mentation required to verify eligi-
10 bility for a Federal Pell Grant;
11 and

12 “(cc) assistance in rehabili-
13 tating loans under section 428F.

14 “(ii) REPORT.—Not later than 1 year
15 after the date of enactment of the Expand-
16 ing Educational Opportunities for Justice-
17 Impacted Communities Act, the Secretary
18 shall submit to the Committee on Edu-
19 cation and Labor of the House of Rep-
20 resentatives and the Committee on Health,
21 Education, Labor, and Pensions of the
22 Senate, and make publicly available on the
23 website of the Department, a report on
24 how the forms and processes are being
25 streamlined under clause (i).”; and

1 (2) by adding at the end the following:

2 “(i) PROHIBITION ON QUESTIONS RELATING TO
3 DRUG OFFENSES.—The Secretary may not include on the
4 forms developed under this subsection any data items re-
5 lating to whether an applicant has a conviction of any of-
6 fense under any Federal or State law involving the posses-
7 sion or sale of a controlled substance (as defined in section
8 102(6) of the Controlled Substances Act (21 U.S.C.
9 802(6)).”.

10 **SEC. 4. REMOVAL OF SUSPENSION OF ELIGIBILITY FOR**
11 **DRUG-RELATED OFFENSES.**

12 Section 484 of the Higher Education Act of 1965 (20
13 U.S.C. 1091) is amended by striking subsection (r).

14 **SEC. 5. ACCREDITING AGENCY RECOGNITION OF INSTITU-**
15 **TIONS ENROLLING INCARCERATED INDIVID-**
16 **UALS.**

17 Section 496(a)(4) of the Higher Education Act of
18 1965 (20 U.S.C. 1099b(a)(4)) is amended—

19 (1) in subparagraph (A), by striking “and” at
20 the end;

21 (2) in subparagraph (B)(ii), by inserting “and”
22 at the end; and

23 (3) by adding at the end the following:

24 “(C) if such agency or association has or
25 seeks to include within its scope of recognition

1 the evaluation of the quality of institutions of
2 higher education that seek to award Federal
3 Pell Grants under section 401(k) to incarcerated
4 individuals for a course of study at such
5 institution, such agency or association shall, in
6 addition to meeting the other requirements of
7 this subpart, demonstrate to the Secretary
8 that—

9 “(i) the agency or association’s stand-
10 ards include a process for determining if
11 the institution has the capability to effec-
12 tively offer such a course of study to incar-
13 cerated individuals; and

14 “(ii) the agency or association re-
15 quires a demonstration that—

16 “(I) such course of study is
17 taught by faculty with experience and
18 credentials comparable to the experi-
19 ence and credentials of faculty who
20 teach courses of study available to
21 non-incarcerated students enrolled at
22 the institution;

23 “(II) academic credits earned by
24 incarcerated individuals for comple-
25 tion of a course of study are treated

1 by the institution as the equivalent to
2 credits earned by non-incarcerated
3 students for an equivalent course;

4 “(III) the institution provides
5 sufficient educational content and re-
6 sources to students enrolled in such a
7 course of study that are, to the extent
8 practicable, consistent with the edu-
9 cational content and resources avail-
10 able to non-incarcerated students; and

11 “(IV) the institution has the ca-
12 pacity, staffing, and expertise to pro-
13 vide incarcerated individuals with the
14 support and advising services nec-
15 essary to select and successfully par-
16 ticipate in such a course of study and,
17 to the extent practicable, with support
18 upon reentry (including career and
19 academic advising);”.

20 **SEC. 6. REPORT ON IMPACTS OF FEDERAL PELL GRANTS**
21 **AWARDED TO INCARCERATED INDIVIDUALS.**

22 Not later than 3 years after the date of enactment
23 of this Act, the Secretary of Education shall submit to
24 the Committee on Education and Labor of the House of
25 Representatives and the Committee on Health, Education,

1 Labor, and Pensions of the Senate, and make publicly
2 available on the website of the Department of Education,
3 a report on the impacts of subsection (k) of section 401
4 of the Higher Education Act of 1965 (20 U.S.C. 1070a),
5 as added by this Act, based on the most recent data col-
6 lected under paragraph (3) of such subsection (k).

○